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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NICOLE K. DRUMHILLER,)	
)	NO.
Plaintiff,)	
)	COMPLAINT
v.)	
)	
AMERICAN PUBLIC UNIVERSITY)	JURY DEMAND
SYSTEM, INC.,)	
)	
Defendant.)	

Plaintiff Nicole K. Drumhiller (“Plaintiff” or “Drumhiller”) alleges as follows:

NATURE OF THE ACTION

This is an action under RCW 49.60.210, Title IX of the Education Amendments of 1972, 20 U.S.C. §1681, and Wrongful Discharge in Violation of Public Policy. Plaintiff seeks economic and equitable relief to redress being wrongfully terminated and retaliated against for being a victim of sexual harassment and participating in a sham investigation conducted by Defendant.

I. JURISDICTION AND VENUE

1.1 Pursuant to 28 U.S.C. §§1331, 1343(a)(3) and (a)(4), and 28 U.S.C. §1367 this Court has jurisdiction over Plaintiff’s claims.

1 1.2 Pursuant to 28 U.S.C. §1391(b) jurisdiction is proper in the United
2 States District Court for the Eastern District of Washington.

3 **II. PARTIES**

4 2.1 Plaintiff is and has been at all times material to this lawsuit a resident
5 of Pullman, Washington.

6 2.2 Defendant is and has been at all times material to this lawsuit
7 headquartered in Charles Town, West Virigina, and conducted business
8 throughout the United States through its online platform.

9 **III. FACTS**

10 3.1 Nicole Drumhiller, a citizen of Washington State, most recently
11 served as Dean of the School of Security and Global Studies (SSGS) with APUS.
12 She worked for APUS for nearly 11 years in a variety of roles.

13 3.2 At times relevant to this suit, Ms. Drumhiller was also a student
14 enrolled in courses with APUS.

15 3.3 During her employment with APUS, she never received any
16 discipline or performance improvement counseling.

17 3.4 Much to her surprise and dismay, after discussing with APUS's
18 director of human resources the disturbing events that occurred on June 8, 2023,
19 where she was victimized by an APUS Vice President while attending an APUS
20 event in Fort Washington, Maryland, APUS abruptly terminated her employment
21 in violation of Washington State and federal law.

22 **A. An APUS Vice President Approaches Ms. Drumhiller on the Evening**
23 **of June 8, 2023.**

24 3.5 On the evening of June 8, Ms. Drumhiller attended two APUS events
25 held at the Gaylord National Resort and Convention Center in Fort Washington,
26 Maryland. The events included the #BeGreat Nominee Meet & Greet, and the
27 #BeGreat dinner.

1 3.6 Like several other attendees, Ms. Drumhiller did consume alcoholic
2 beverages that were offered and provided at both events. At the #BeGreat meet
3 and greet event, she specifically recalls a brief interaction with APUS's Vice
4 President of Finance ("Vice President") who was also a former associate of
5 President Nuno Fernandez.

6 3.7 During their short interaction, the Vice President grazed
7 Ms. Drumhiller's arm and asked: "[d]o you always look like this?" Taking his
8 physical contact and comment as unwanted flirtation, Ms. Drumhiller thought his
9 actions were very aggressive and strange given that she had no prior direct
10 interaction with him beyond a few email exchanges and seeing him as a
11 participant in virtual meetings. Following the #BeGreat dinner, Ms. Drumhiller
12 went to her room and changed clothes.

13 **B. Ms. Drumhiller Awakes to Confusion, Sickness, and Loss of Memory.**

14 3.8 The next memory Ms. Drumhiller has after returning to her room to
15 change clothes is waking up in her hotel room on the morning of Friday, June 9,
16 2023.

17 3.9 Ms. Drumhiller was awoken by a phone call from APUS employee
18 Kate Brannum asking about her whereabouts. Ms. Drumhiller was completely
19 disoriented, had difficulty speaking, and felt unwell with extreme sensitivity to
20 light akin to a severe migraine. Ms. Drumhiller, who is a casual drinker, had never
21 before experienced similar feelings after consuming alcohol. She was terrified
22 and was immediately anxious about missing both the APUS convocation
23 scheduled for that morning and possibly other APUS events that day due to her
24 symptoms.

25 3.10 As Ms. Drumhiller attempted to ready herself for the APUS Provost
26 Luncheon, she noticed her credit card was missing, which seemed strange and
27

1 alarming. She had difficulty walking to the lunch event. Once there, she was
2 essentially forced to remain seated given her symptoms.

3 3.11 During the luncheon, she asked a colleague about the events of the
4 night before. He responded that he had not seen her but asked about whether she
5 could have been “given something” because she was noticeably unwell and had
6 symptoms of having been drugged. Other colleagues have also since confirmed
7 that Ms. Drumhiller appeared noticeably and uncharacteristically unwell at the
8 luncheon.

9 3.12 Following the luncheon, Ms. Drumhiller rested and recovered in her
10 hotel room. She then attended the APUS Memorial Tea event during which time
11 her symptoms persisted. During that event, her colleagues continued to express
12 concern about her wellness. At the conclusion of the Memorial Tea, she walked
13 briefly through the GradFest event where she felt dizzy and promptly returned to
14 her hotel room. After her symptoms began to improve, she attended the Graduate
15 Welcome Reception that evening and then joined other faculty members in the
16 Belvedere lobby bar lounge.

17 3.13 While socializing with her colleagues in the lobby bar area,
18 Ms. Drumhiller was informed that another colleague had been injured on the
19 hotel’s escalator and transported to the hospital for stitches. She and other
20 colleagues waited in the lobby for his return. At some point, the Vice President
21 joined them. This was the first time she recalled any interaction with him since
22 he had touched her arm and made the inappropriate comment about her
23 appearance the night before. Ultimately, they did not see the injured colleague
24 return, and Ms. Drumhiller returned to her hotel room for the night.

C. Ms. Drumhiller Attends all University Events, and Hears from Human Resources for the First Time on June 12.

3.14 On Saturday, June 10, Ms. Drumhiller attended all graduation festivities. The following day, the APUS team transferred to another hotel to hold a series of meetings, which she attended in full. That night, she does recall experiencing a nightmare and had to sleep with the hotel light on.

3.15 On Monday, June 12, the Vice President approached her between meetings to ask if they could chat briefly. He mentioned that he had a conversation with human resources about the evening of Thursday, June 8. At that time, the only contact Ms. Drumhiller recalled having with him on Thursday was at the #BeGreat meet and greet where he made her feel uncomfortable by grazing her arm and commenting about her appearance. He did not share any specifics of what he discussed with human resources.

3.16 Later that day, Ms. Drumhiller received an email from Mauricia Blackwell in APUS human resources that vaguely asked her to discuss the events of June 8. When the two connected over the phone, Ms. Blackwell mentioned that she knew Ms. Drumhiller had “gone out” on June 8 and wanted to know if everything was “consensual.” Ms. Blackwell provided no context for the question asked or explanation as to the reason for the call. Moreover, she did not mention the Vice President’s name or suggest the conversation had anything to do with interactions Ms. Drumhiller may have had with him.

3.17 Still not knowing what had occurred the night of June 8, Ms. Drumhiller responded that she had gone out (which she knew from her credit card transactions but did not recall), that she was OK, and that she assumed her presence out was consensual. Ms. Blackwell then ended the call without providing any additional information despite knowing much more about what

1 occurred on the night of June 8 and knowing that the Vice President and Ms.
2 Drumhiller were still located in the same hotel.

3 3.18 That evening, Ms. Drumhiller heard someone shouting near her hotel
4 room who sounded like the Vice President. At this point, not knowing the full
5 extent of what had occurred on June 8, Ms. Drumhiller became uncomfortable
6 with the situation. She began taking the stairs from the fifth floor to avoid any
7 one-on-one contact with him. She never saw him again and did not have any
8 further contact with him.

9 **D. Ms. Drumhiller Finally Learns She was a Victim and Had Been Taken**
10 **Advantage of by the Vice President.**

11 3.19 The next day, on Tuesday, June 13, Ms. Drumhiller received another
12 email request from Ms. Blackwell to speak again because an undisclosed member
13 of the leadership team reported that Ms. Drumhiller, on the evening of June 8,
14 commented: "If [the Vice President] doesn't accost me again..." Given that
15 Ms. Drumhiller was still experiencing memory loss and was confused by the
16 phrasing of Ms. Blackwell's email, she was understandably disturbed.
17 Ms. Drumhiller agreed to meet with Ms. Blackwell the following day.

18 3.20 On Wednesday, June 14, Ms. Drumhiller met with Ms. Blackwell
19 after the APUS meetings concluded. Ms. Blackwell stated that she wanted to talk
20 with Ms. Drumhiller again because she felt like something was wrong.

21 3.21 During the conversation, Ms. Drumhiller mentioned having no
22 memory of the events that transpired after the #BeGreat dinner and did not recall
23 making the comment about the Vice President accosting her. But she did
24 acknowledge that was strong language for her and not a comment she would have
25 made lightly, especially in a workplace setting. Given her lack of memory, she
26 mentioned being concerned about retaliation but wanted to be forthcoming about
27

1 what she could recall in case there was a pattern of behavior with the Vice
2 President. Ms. Drumhiller cooperated fully with Ms. Blackwell.

3 3.22 Ms. Blackwell then asked Ms. Drumhiller if she even knew what had
4 transpired. She did not. For the first time, Ms. Blackwell informed her that that
5 another APUS leader had seen the Vice President kissing Ms. Drumhiller in a bar
6 across the street from the hotel and that a photo had been taken showing it in the
7 background.

8 3.23 Ms. Drumhiller was immediately distraught and felt violated,
9 embarrassed, and humiliated as that was not something she would have done of
10 her own volition. Indeed, she is a happily married woman in a monogamous
11 relationship with her husband of nine years.

12 3.24 This news was also startling given that six days had passed since that
13 event, and this was the first time that anyone from APUS informed her about what
14 they already knew regarding her victimization.

15 3.25 Ms. Drumhiller recounted to Ms. Blackwell how people had
16 approached her during the different events that occurred on Friday, June 9, who
17 asked if she had been “given anything,” i.e., drugged. Ms. Blackwell also asked
18 if Ms. Drumhiller if she thought she could have been given something, which
19 Ms. Drumhiller agreed seemed likely given her symptoms. Ms. Drumhiller also
20 reported she had a strange recollection from that evening, which she was not sure
21 was a dream or reality, of someone standing over her where she had a visceral
22 drawn-back feeling. Ms. Blackwell told Ms. Drumhiller that APUS needed to
23 respond and mentioned it being “a liability”.

24 3.26 Ms. Blackwell again pressed Ms. Drumhiller about whether the
25 interaction with the Vice President was consensual. Ms. Drumhiller reiterated
26 that she had no memory of the event so could not in good faith say either way, but
27 it was not behavior to which she would have consented. She also repeated that

1 the behavior was very troubling as it was out of character for her. Ms. Blackwell
2 also agreed that the reported behavior seemed very unusual and far outside
3 Ms. Drumhiller's normal behavior.

4 3.27 Ms. Blackwell went on to explain that the Vice President was able to
5 recall the events of that evening, and it was concerning to her that, even if
6 Ms. Drumhiller's behavior was due to alcohol intoxication, his behavior toward
7 her did not stop. Ms. Blackwell did not disclose anything else that had been
8 observed that evening.

9 3.28 After the June 14 meeting, Ms. Drumhiller asked about the next
10 steps. Ms. Blackwell explained that human resources would continue to proceed
11 with its investigation, and she followed up with an email saying: "Thank you for
12 taking the time to talk to me today. I know that was not an easy conversation, and
13 *I appreciate your candidness and openness.*" Interestingly, Ms. Blackwell never
14 mentioned to Ms. Drumhiller that she also served as the faculty Title IX
15 coordinator.

16 **E. APUS Places Ms. Drumhiller on Administrative Leave and Promptly**
17 **Fires Her.**

18 3.29 Following that meeting, Ms. Drumhiller flew home across the
19 country arriving in Pullman, Washington shortly after midnight on Thursday,
20 June 15. While traveling home, she received an email with information about the
21 Employee Assistance Program and then another email from APUS's legal
22 department with a notice of preservation.

23 3.30 On the morning of Thursday, June 15, Ms. Drumhiller promptly
24 responded to the email from the legal department asking about the steps she
25 needed to take to comply with their request. Ms. Blackwell also requested a
26 virtual meeting at 7:30 a.m. PDT during which she placed Ms. Drumhiller on paid
27 administrative leave.

1 3.31 Now that she was back home, Ms. Drumhiller scheduled an
2 appointment with her primary care physician. On Friday, June 16, Dr. Harris and
3 Ms. Drumhiller discussed what occurred, date rape drug victimization, possibly
4 therapy, and testing for infectious diseases.

5 3.32 Ms. Blackwell reached back out that same day and requested to speak
6 with Ms. Drumhiller on Tuesday, June 20, at 7:00 a.m. PDT. As soon as the
7 meeting began, Ms. Blackwell and Ms. Tellier terminated Ms. Drumhiller's
8 employment effective immediately without explanation, but said they would
9 permit Ms. Drumhiller to "resign" from her position. Ms. Blackwell confirmed
10 Ms. Drumhiller's personal contact information and promptly ended the call.

11 3.33 Minutes later, at 7:32 a.m. PDT, Ms. Drumhiller received an email
12 stating:

13 Nicole, As communicated, your employment with APUS will end
14 effective today. Please see the attached document, which provides
15 information that you will find helpful. Access to the APUS system
16 will be cut shortly. Please let me know if you wish to resign, by noon
ET today.

17 3.34 APUS did not provide any explanation for the abrupt termination,
18 did not provide any details from its so-called "investigation", and did not offer
19 any support for her victimization given what it then knew about the Vice President
20 and his behavior.

21 **F. Ms. Drumhiller was Never Assisted by the Title IX Coordinators, and**
22 **Learns that the Vice President had Attempted to Victimize Others.**

23 3.35 Despite APUS's website holding out Ms. Blackwell as the Title IX
24 coordinator for faculty, she never disclosed that position or offered
25 Ms. Drumhiller any guidance regarding Title IX and her rights under that law.
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27

1 3.36 Incidentally, Ms. Drumhiller was also enrolled as a student in a
2 Master's level psychology course but was never contacted by the Title IX
3 coordinator for students, Caroline Simpson.

4 3.37 APUS never provided Ms. Drumhiller with information on the
5 outcome of the "investigation", information on how the investigation originated,
6 or the opportunity to provide any evidence to respond to the claims made against
7 her. Indeed, the legal department's June 15 email noted that the allegations were
8 "very serious" and "warranted a thorough investigation" but beyond saying that
9 there were allegations of "inappropriate conduct" nothing specific was ever
10 disclosed to Ms. Drumhiller. Indeed, APUS never even informed Ms. Drumhiller
11 she was a target of any allegations or the investigation.

12 3.38 On June 21, 2023, an APUS administrator informed Ms. Drumhiller
13 that APUS "released" the Vice President.

14 3.39 Just days later, another APUS administrator informed
15 Ms. Drumhiller that she witnessed and had to intervene physically in four
16 incidents between her female staff members and the Vice President. She stated
17 that she knew that human resources had interviewed at least six other women
18 regarding the Vice President's predatory behavior.

19 3.40 Following Ms. Drumhiller's June 27 request that APUS provide the
20 reason for her termination, APUS finally responded on July 5 with a short bullet
21 point list of "reasons", which all related to her victimization by the Vice President:

- 22 1. Missing Convocation where your presence was required;
- 23 2. Inappropriate behavior while on work travel after work event,
24 in presence of several APUS staff;
- 25 3. Lack of judgment regarding alcohol consumption requiring
26 two individuals to assist you back to your hotel room to ensure
27 your safety;

1 4. Inappropriate decision to partake in alcoholic beverages again
2 the following evening (Friday night); and

3 5. Failure to be forthcoming during the course of the University's
4 investigation.

5 3.41 Rather than protect Ms. Drumhiller as the victim of a predator, APUS
6 attempted to sweep the problem under the rug by firing her and the Vice President.

7 **IV. FIRST CAUSE OF ACTION:**

8 **SEXUAL HARASSMENT IN VIOLATION OF THE WASHINGTON**
9 **LAW AGAINST DISCRIMINATION, RCW 49.60**

10 4.1 Plaintiff re-alleges and incorporates herein all preceding paragraphs
11 in this Complaint as though set forth in full herein.

12 4.2 Plaintiff suffered severe sexual harassment while working for APUS.

13 4.3 Plaintiff is a member of a protected group under RCW 49.60 *et seq.*,
14 based on her sex.

15 4.4 As described above, Plaintiff was subjected to unwelcome sexual
16 conduct by Defendant APUS's Vice President that created a hostile work
17 environment.

18 4.5 The hostile work environment sexual harassment Plaintiff suffered
19 while working for APUS negatively affected the terms and conditions of her
20 employment.

21 4.6 APUS failed to prevent or promptly correct the unlawful sexual
22 harassment Plaintiff suffered while working for APUS.

23 4.7 As a direct and proximate cause of APUS's actions and inactions,
24 Plaintiff has suffered harms, losses, and damages.

25 4.8 Plaintiff's harms, losses, and damages include, but are not limited to,
26 lost wages and benefits, lost earning capacity, lost opportunities, damage to her
27

1 professional reputation, mental and emotional distress, necessary and reasonable
2 past and future medical treatment, and other damages to be proven at trial.

3 4.9 Plaintiff's harms, losses, and damages are continuing.

4 **V. SECOND CAUSE OF ACTION:**

5 **RETALIATION IN VIOLATION OF RCW 49.60 ET SEQ.**

6 5.1 Plaintiff re-alleges and incorporates herein all preceding paragraphs
7 in this Complaint as though set forth in full herein.

8 5.2 While in APUS's employ, Plaintiff participated in protected and
9 opposition activity by participating in investigations about the Vice President's
10 sexual misconduct and/or sexual harassment.

11 5.3 APUS took adverse action against Plaintiff including, but not limited
12 to, conducting a sham investigation, placing her on administrative leave, and
13 wrongful termination.

14 5.4 Plaintiff's protected and opposition activities were a substantial
15 factor in APUS's adverse employment decisions against Plaintiff.

16 5.5 As a direct and foreseeable result of APUS's unlawful and retaliatory
17 conduct and wrongful discharge of Plaintiff, Plaintiff has suffered both economic
18 and noneconomic damages related to lost wages, significant emotional distress,
19 damage to her reputation, deprivation of APUS's tuition waiver and other
20 benefits, and other harms, losses, and damages to be proven at trial.

21 5.6 Plaintiff's harms, losses, and damages are continuing.

22 **VI. THIRD CAUSE OF ACTION:**

23 **VIOLATION OF TITLE IX OF THE EDUCATION AMENDMENTS**

24 **OF 1972, 20 U.S.C. § 1681**

25 6.1 Plaintiff re-alleges and incorporates herein all preceding paragraphs
26 in this Complaint as though set forth in full herein.

1 6.2 Title IX, 20 U.S.C. §1681 makes it unlawful for an education
2 institution to intimidate, punish, discriminate or retaliate against an individual
3 because they file a Title IX complaint or assist with a Title IX action.

4 6.3 While in APUS's employ, Plaintiff participated in protected and
5 opposition activities by complaining about the Vice President's sexual
6 misconduct with and/or sexual harassment.

7 6.4 APUS took adverse action against Plaintiff including, but not limited
8 to, conducting a sham investigation, placing her on administrative leave, and
9 wrongful termination.

10 6.5 Plaintiff's protected and opposition activities were a substantial
11 factor in APUS's adverse employment decisions against Plaintiff.

12 6.6 As a direct and foreseeable result of APUS's unlawful and retaliatory
13 conduct and wrongful discharge of Plaintiff, Plaintiff has suffered both economic
14 and noneconomic damages related to lost wages, significant emotional distress,
15 damage to her reputation, deprivation of APUS's tuition waiver and other
16 benefits, and other harms, losses, and damages to be proven at trial.

17 6.7 Plaintiff's harms, losses, and damages are continuing.

18 **VII. FOURTH CAUSE OF ACTION:**

19 **WRONGFUL TERMINATION AGAINST PUBLIC POLICY**

20 7.1 Plaintiff re-alleges and incorporates herein all preceding paragraphs
21 in this Complaint as though set forth in full herein.

22 7.2 Plaintiff was fired for being victimized by the Vice President and in
23 retaliation for participating in the "investigation" regarding the Vice President's
24 sexual harassment and misconduct.

25 7.3 In the alternative, Plaintiff pleads the claim under the *Perritt* factors.
26
27

1 7.4 Washington has a clear public policy prohibiting retaliation against
2 employees, including Plaintiff, who was the victim of sexual misconduct and/or
3 sexual harassment and participated in an investigation about the same.

4 7.5 Washington has a clear public policy prohibiting relation against
5 employees, including Plaintiff, who are victims of sexual misconduct and/or
6 sexual harassment and participate in investigations regarding the same.

7 7.6 APUS terminated Plaintiff's employment because Plaintiff in good
8 faith participated in the investigation about the sexual misconduct and/or sexual
9 harassment she suffered. There is no overriding justification for APUS's
10 misconduct.

11 7.7 Moreover, Plaintiff is not prohibited from asserting a claim for
12 wrongful termination in violation of public policy by the existence of any
13 exclusive, alternative statutory remedies, regardless of whether or not such
14 statutory remedies are adequate.

15 7.8 As a direct and foreseeable result of APUS's unlawful and retaliatory
16 conduct and wrongful discharge of Plaintiff, Plaintiff has suffered both economic
17 and noneconomic damages related to lost wages, significant emotional distress,
18 damage to her reputation, deprivation of APUS's tuition waiver and other
19 benefits, and other harms, losses, and damages to be proven at trial.

20 7.9 Plaintiff's harms, losses, and damages are continuing.

21 **VIII. REQUEST FOR RELIEF**

22 8.1 All general and special damages sustained by Plaintiff including, but
23 not limited to, backpay, front pay, benefits, a gross-up for negative tax
24 consequences, and emotional distress damages;

25 8.2 Punitive damages pursuant to statute;

26 8.3 Reinstatement;

1 8.4 Interest calculated at the maximum amount allowable by law,
2 including pre- and post-judgment interest;

3 8.5 Costs and disbursements pursuant to statute;

4 8.6 Reasonable attorneys' fees as allowed by law; and

5 8.7 Any and all additional economic or equitable relief allowed by law
6 or equity as the Court deems appropriate.

7 **IX. JURY DEMAND**

8 9.1 Plaintiff demands a trial by jury of all issues properly triable by jury
9 in this action.

10 DATED this 26th day of September, 2023.

11 CORR|DOWNS PLLC

12
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